

REMARKS:

Claims 1-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by McCarthy et al. (U.S. Patent No. 6,904,408). To anticipate claims under 35 U.S.C. § 102, McCarthy must disclose each and every element and limitation recited in the claims of the present application. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As explained in more detail below, McCarthy does not disclose each and every element of claim 1, and therefore does not anticipate the claims of the present application within the meaning of 35 U.S.C. § 102. Applicants respectfully traverse the rejection and request reconsideration of claims 1-18.

Turning first to independent claim 1, claim 1 recites:

A method for improving the devices in a domain, the method comprising:

receiving, within a network, a plurality of device effectiveness records for a first user created in a first domain, each device effectiveness record including information used to evaluate whether particular actions by respective devices were effective in affecting a particular condition of the first user, the first domain including a first compatible services gateway coupled for data communications to metric sensors that measure indications of the first user's condition, the first compatible services gateway hosting a first domain mediation layer that is a set of services for administering devices based on the measured indications of the first user's condition;

storing the plurality of device effectiveness records;

selecting a device that was effective in affecting the first user's condition in dependence upon the plurality of device effectiveness records; and

notifying a second user in a second domain that the selected device was effective in affecting the first user's condition to allow the second user to benefit from the effectiveness of the selected device by upgrading the second domain to include a second domain device that matches the selected device.

That is, claim 1 claims a method for improving the devices in a domain that includes, among other elements, a first domain that includes a compatible services gateway coupled for data communications to metric sensors that measure indications of a first user's condition and a set of services for administering devices based on the measured indications of the first user's condition and notifying a second user in a second domain that a device was effective in affecting a first user's condition to allow the second user to benefit from the effectiveness of the selected device by upgrading the second domain to include a second domain device that matches the selected device

The Office Action takes the position that McCarthy discloses claim 1 at column 31, lines 1-37, column 34, lines 17-30, Figure 7, column 40, lines 38-53, column 35, line 50-column 36 line 8, Figure 9, column 37, lines 9-65, column 41, lines 10-30, and column 34, lines 16-30. In fact, none of the cited portions of McCarthy disclose the limitations of claim 1 for which they are cited. McCarthy, both generally and in the cited sections, discloses a BioNet method for delivering personalized web content to a web browser in response to characteristics of browser user sessions, legacy data, and physiologic signals. The characteristics of browser user sessions, legacy data, and physiologic signals are used to recommend ads, media, and content to be delivered to the browser. That is, McCarthy is concerned with delivering, to a single user across a single network to a single browser, personalized content for the user.

In stark contrast to McCarthy, claim 1 claims a method for improving the devices in a domain that includes, among other elements, notifying a second user in a second domain that a device was effective in affecting a first user's condition to allow the second user to benefit from the effectiveness of the selected device by upgrading the second domain to

include a second domain device that matches the selected device. McCarthy does not disclose each and every element of claim 1 because McCarthy does not disclose improving the devices in one domain by notifying a user that a device was effective in affecting another user's condition in another domain. In fact, McCarthy does not disclose devices or domains as claimed in claim 1. More particularly, claim 1 claims a domain that includes a compatible services gateway coupled for data communications to metric sensors that measure indications of a user's condition and a set of services for administering devices based on the measured indications of the first user's condition. McCarthy discloses no such domain. The devices of claim 1 affect a particular condition of a user. McCarthy does not disclose such devices but instead discloses personalized content delivered on a browser. Finally, claim 1 claims a user that a device was effective in affecting another user's condition in another domain. McCarthy does not disclose multiple domains but instead is concerned with a single user on a single network. McCarthy therefore does not disclose any element of claim 1 and therefore cannot anticipate claim 1. The rejection should therefore be withdrawn.

Relations Among Claims

Independent claims 7 and 13 are system and computer program product claims, respectively, for improving the devices in a domain corresponding to independent method claim 1 that include "means for" and "means, recorded on [a] recording medium, for" improving the devices in a domain. Claim 1 is allowable for the reasons set forth above. Claims 7 and 13 are allowable for the same reasons that claim 1 is allowable. The rejections of claims 7 and 13 therefore should be withdrawn, and claims 7 and 13 should be allowed.

Claims 2-6, 8-12, and 14-18 depend respectively from independent claims 1, 7, and 13. Each dependent claim includes all of the limitations of the independent claim from which it depends. Because McCarthy does not disclose each and every element of the independent claims, McCarthy does not disclose each and every element of the dependent

claims of the present application. As such, the rejections of claims 2-6, 8-12, and 14-18 should also be withdrawn, and the claims should be allowed.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,



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